



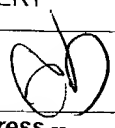
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,325	10/18/2000	Hubert Vattement	11123.19US01	5206
23552	7590	04/22/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			TUCKER, PHILIP C	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/691,325	<b>Applicant(s)</b> VATTEMENT, HUBERT	
	<b>Examiner</b> Philip C Tucker	<b>Art Unit</b> 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-38 is/are pending in the application.  
     4a) Of the above claim(s) 24-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-23 and 34-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of I in Paper No. 4 is acknowledged. The traversal is on the ground(s) that It has not been shown that the search of all claims is a burden. This is not found persuasive because as noted in the restriction requirement, such inventions are classified in different classes and subclasses, and the search of all the inventions would be an extremely enormous burden upon the Patent Office. However, since there is some over lap of the search of inventions I and II, both have been examined herein. Invention III has not been examined in view of the restriction requirement.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8, 13-20, 22, 23 and 34-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Cowan (5343952).

Cowan teaches a cement composition comprising blast furnace slag in amounts as taught in column 13, lines 4-20, clay such as bentonite (column 5, lines 9-11), an

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activator in the amounts as taught in column 15, lines 4-28 and water. The Blaine surface area may be as low as 500 cm squared per gram, which would clearly have particle sizes within the scope of the present invention (column 6, lines 8-18). The ratios of components are within the scope of the calcium oxide/silicon oxide ratios of the claims, and within the scope of providing the same chemical modulus of the present invention (column 6, lines 19-24).

4. Claims 1, 3-8, 13, 14, 16-20, 22, 23, 34 and 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Hale (5361842).

Hale teaches a cement composition comprising blast furnace slag in amounts as taught in column 28, lines 1-7, clay such as bentonite (column 18, lines 46-57), an activator in the amounts as taught in column 20, lines 15-40 and water. The Blaine surface area may be as low as 2000 cm squared per gram, which would clearly have particle sizes within the scope of the present invention (column 5, lines 15-21). The ratios of components are within the scope of the calcium oxide/silicon oxide ratios of the claims, and within the scope of providing the same chemical modulus of the present invention (column 5, lines 26-31).

5. Claims 1, 2, 5, 6, 12-15, 18-21, 34, 35 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Rae (5447197).

Rae teaches a cement for use in a wellbore which comprises blast furnace slag containing particle sizes up to 100 micrometers (column 3, lines 40-42), clay such as

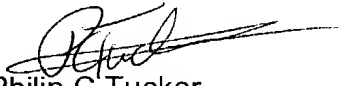
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bentonite (column 5, lines 14-20), and accelerators within the scope of the present invention (column 6, lines 19-42). The cement also contains Portland cement which would act as an activator in the present invention (column 3, lines 50-57).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Philip C Tucker  
Primary Examiner  
Art Unit 1712

PCT-2994